

**REMARKS**

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. Claims 4-7 and 12 have been allowed, Claims 8-9 have been objected to, and Claims 1-3 and 10-11 have been rejected by the Examiner. Claims 1 and 8 have been amended. Claims 3 and 11 have been cancelled without prejudice. No new matter has been added. Accordingly, Claims 1-2, 4-10, and 12 will be pending in the present application upon entry of this Amendment and Reply.

A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

**Claim Objections, Allowable Subject Matter, and Comment on Statement of Reasons for Allowance**

On page 4 of the Office Action, Claims 8-9 were objected to as being dependent upon a rejected base claim, although the Examiner indicated that such claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 8 has been rewritten to include all of the limitations of Claim 1, from which it depended. Accordingly, the Applicant submits that Claim 8 (and Claim 9, by virtue of its dependency on Claim 8) is allowable.

The Examiner stated: "Claims 8-9 would be allowable because the prior art does not disclose or suggest having a rechargeable battery wherein the sealing plug is formed from an electrically conductive plastic."

While the Applicants agree that Claims 8-9 recite a combination of subject matter that is patentable over the cited references, the Applicants do not necessarily agree with or acquiesce in the statement of reasons for allowance given by the Examiner. Moreover, the Applicants note that the recited subject matter as well as various other subject matter and/or combinations of subject matter may be patentable for other reasons than those given by the Examiner. The Applicants expressly reserve the right to set forth additional and/or alternative

reasons for patentability and/or allowance with the present Application or in any other future proceeding.

**Claim Rejections – 35 U.S.C. § 102**

On page 2 of the Office Action, the Examiner rejected Claims 1-3 and 9-11 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,277,517 to Thomas et al.

The Applicant note that Claims 3 and 11 have been cancelled without prejudice (the limitations of Claim 3, along with other language, has been inserted into independent Claim 1).

The Applicant also notes that the Examiner has indicated that Claim 9 is allowable (see previous section of this Amendment and Reply). Accordingly, the Applicant assumes for purposes of this response that the Examiner intended to reject Claims 1-3 and 10-11.

Claim 1 is in independent form and recites a “rechargeable battery” comprising, in combination with other elements, a “sealing plug” that “has an opening provided therein separate from the slots and adjacent to the openings of the degassing system and the degassing system is connected to the splash basket via the opening in the sealing plug such that the slots form return paths for electrolyte from the degassing system.” Claims 2 and 10 depend from independent Claim 1.

One exemplary embodiment of such a sealing plug is described in the present application at paragraphs [0017] and [0023] as follows:

[0017] The degassing system for holding electrolyte gases can also be connected, when the sealing plug is inserted, to the slots via an opening which is provided in the sealing plug, such that the slots form return paths for electrolyte entering the degassing system. Liquid drops which enter the degassing system can advantageously in this case be passed back into the cell again.

[0023] An opening 10 is provided on one side wall 8c of a lower part 9 of the sealing plug 5 and connects the degassing channel 11 for the degassing system 2 to the cell interior (not shown) via a cavity 12 which is surrounded by the sealing plug 5 and is open at the bottom.

Thomas et al. does not identically disclose a "rechargeable battery" comprising, among other elements, a "sealing plug" that "has an opening provided therein separate from the slots and adjacent to the openings of the degassing system and the degassing system is connected to the splash basket via the opening in the sealing plug such that the slots form return paths for electrolyte from the degassing system" as recited in independent Claim 1.

For example, the sealing plugs disclosed in Thomas et al. have slots 44 forming the opening to the degassing system formed by the hollow portion of the cover (see, e.g., Figure 8 and column 6, lines 54-58 of Thomas et al.). No additional opening in the sealing plug is disclosed in Thomas.

Because at least one element recited in independent Claim 1 is not identically disclosed in Thomas et al., the Applicant submit that Claim 1 is patentable over Thomas et al..

Dependent Claims 2 and 10, which depend from independent Claim 1, are also patentable. See 35 U.S.C. § 112 ¶ 4.

The Applicants respectfully request withdrawal of the rejection of Claims 1-2 and 10 under 35 U.S.C. § 102(b).

\* \* \*

It is submitted that each outstanding objection and rejection to the Application has been overcome, and that the Application is in a condition for allowance. The Applicants request consideration and allowance of all pending claims.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are

needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

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